IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 10324 of 1996

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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HARIBA R SANA & 6 - Petitioner(s)
Versus
STATE OF GUJARAT & 1 - Respondent(s)

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Appearance :
MR AS SUPEHIA for Petitioner(s) :
Shri Mihir Joshi, Additional Advocate General with Ms. Maithily Mehta, AGP for Respondent(s) : 1 - 2.

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH
Date : 27/12/2006

ORAL JUDGMENT

By way of the present Special Civil Application under Article 226 of the Constitution of India, the respective petitioners who were at the relevant time serving as 2nd Grade Head

Constables in Head Constable Grade No. 11,, Vav, District-Surat, have prayed for an appropriate writ, order or direction to quash and set aside the result of the written examination declared on 9.12.1996. A further prayer is also made for directing the respondents to apply 14% reservation for Scheduled Tribe candidates in State Reserve Police Force Group No.11 instead of 30% and promote the general category candidates accordingly to the posts of First Grade Head Constables as per the list dated 18.6.1993. A further consequential prayer is also made with regard to seniority.

2. It is not in dispute that the entire petition is based on the premise that the reservation provided for promotion to the post of 1st Grade Head Constable was more than 51% and for that purpose, Shri AS Supehia, learned advocate appearing on behalf of the petitioners has relied upon one Government Resolution dated 22nd April

1983.

3. Shri Mihir Joshi, learned Additional Advocate General appears on behalf of the respondents. Relying upon the affidavit-in-reply as well as resolution dated 1st January 1987, he has made a categorical statement that so far as Class-III promotional post is concerned the reservation would be for only two categories, i.e., Scheduled Castes and Scheduled Tribes; that so far as Scheduled Castes candidates are concerned, the reservation would be 4 per cent; and for Scheduled Tribes candidates the reservation would be 40% and based on this promotions to the post of 1st Grade Head Constables were made. In view of the above categorical statements made by the learned Additional Advocate General on instructions from one Shri V.J. Simariyawala, Deputy Superintendent of Police, SRP Group-11 that the percentage of reservation for promotional post of Class-III

would be as stated above, i.e., 4% and 40% only. Therefore, the contention on behalf of the petitioners that there was reservation of more than 51% cannot be accepted. In view of the above categorical statement made by the learned Additional Advocate General, Shri AS Supehia, learned advocate has submitted that the grievance of the petitioners would not survive.

4. As stated above, the entire petition is based upon the fact according to the petitioners that reservation for promotional post of 1st Grade Head Constable would be more than 51%. However, it has been found other way round. There is, therefore, no substance in the present Special Civil Application. No other submission has been made.

5. For the reasons stated above, the

petition fails and it is dismissed. Rule is discharged. No costs.

[M.R. Shah, J.]

rmr.